

# **Exhibit EE**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

STEPHANIE CAPSOLAS, HERNAN RICARDO  
ALVARADO, JEFFREY CUTAIAR, NICOLE  
MEDVITZ, PAUL TORO, DANIEL JANSON,  
ROGER CARO, CHRIS ELL, CHRIS FORBES,  
JESSE PATRICK, and DIANA DIETRICH, on behalf  
of themselves and other similarly situated,

Plaintiffs,

v.

PASTA RESOURCES INC., BABBO LLC d/b/a  
BABBO RISTORANTE ENOTECA, PANE SARDO  
LLC d/b/a OTTO ENOTECA PIZZERIA, EL MONO  
LLC d/b/a CASA MONO and BAR JAMON, LA  
LOGGIA LLC d/b/a TARRY LODGE, MARIO  
BATALI, and JOSEPH BASTIANICH,

Defendants.

**DECLARATION OF  
CHRIS FORBES**

I, James Christopher Forbes, declare, upon personal knowledge and under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the following is true and correct:

1. I worked for Casa Mono as a server and bartender from approximately January 2008 through approximately May 2009.
2. During my entire tenure at Casa Mono, I was paid hourly wages of less than the full minimum wage rate.

**NOTICE OF THE TIP CREDIT**

3. Throughout my employment, nobody at Casa Mono ever informed me about the federal law regarding the tip credit at any time during my employment.
4. When I started working at Casa Mono and during the entire course of my employment, nobody ever told me about the requirements that Casa Mono had to meet in order

to take a tip credit or showed me a copy or a summary of any laws, rules, or regulations informing me of such requirements.

**TIP SHARING**

5. During my employment at Casa Mono, I was not allowed to retain all of the tips that I earned.

6. The restaurant's management kept a portion of the customer tips that I and other tipped food service workers earned. The amount that the restaurant's management kept was equal to approximately 4% of the wine sales for each shift.

7. I know this because I often added up the tips for each shift and completed the tip sheets. The tip sheets showed that 4% of the wine sales for the shift was deducted from the tip pool. When I completed the tip sheets, I was required to get the total amount of the shift's wine sales from a manager, take 4% of that number, and subtract the 4% number from the total credit card tips for the shift. The attached **Exhibit A** is a copy of a blank tip sheet used at Casa Mono that is the same as the tip sheets I completed.

8. I do not know what happened to the 4%. I heard Amy Clark, the general manager of Casa Mono, state on several occasions that the deduction from the tip pool went to cover expenses such as broken glassware. I also heard her tell a group of tipped workers, including myself, words to the effect of, if we did not like the 4% deduction, we could try to challenge the practice in a lawsuit, but that the restaurant had the best lawyers. A manager named Jenny Mullins told me the money went to pay for office supplies and printing of the wine menus. Two other managers, Lydia Tillman and Ashley Santorini, told me that the money helped pay managers' salaries under the restaurant's "wine program."

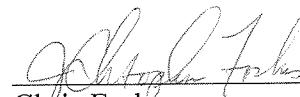
**PASTA RESOURCES, INC.**

9. During my employment at Casa Mono, I interacted with a company called Pasta Resources, Inc. regarding my employment. In the summer or fall of 2008, I had problems with my paycheck and the general manager of Casa Mono, Amy Clark, told me to contact a person at Pasta Resources named Lolita about any questions regarding pay or benefits. I spoke with Lolita several times about my questions regarding my paycheck.

10. Pasta Resources was also involved during Department of Health inspections of Casa Mono. Twice in the spring of 2009, I saw a person from Pasta Resources named Elizabeth come to the restaurant soon after Department of Health inspectors arrived. I saw that she acted as the point person for their questions about the restaurant.

11. I saw Mario Batali and Joe Bastianich come to the restaurant as well. Once, early in 2008, I overheard Mario Batali tell Casa Mono executive chef Andy Nusser that they should switch the type of ham served at the restaurant. I noticed that the ham was soon switched. I also overheard conversations about menu items between Mario Batali and Andy Nusser.

Dated: New York, New York  
September 17, 2010

  
\_\_\_\_\_  
Chris Forbes

**DINNER**

Day \_\_\_\_\_ Date \_\_\_\_\_ Number of Cuts \_\_\_\_\_ Prepared by \_\_\_\_\_

Waiter	Covers	Charge Tips	Cash Tips
Bartender		Charge Tips	Cash Tips
Total			

Wine Sales: \_\_\_\_\_ = \_\_\_\_\_

Wine Department: 4% of Wine sales: \_\_\_\_\_

Charge tip out: \_\_\_\_\_

Bartender	Charge Tip	Cash Tip
Waiter		
Expo		
Backwaiter		

SERVER = 2 CUTS

EXPO = 1.5 CUTS

BUSER = 1 CUT

Cash sales \_\_\_\_\_ Cover Count \_\_\_\_\_

Total Sales \_\_\_\_\_